

REPORT
Food and Agriculture Organization of the United Nations (FAO)
Regional Workshop on the WTO Trade Facilitation Agreement Impact on Agri-Food Trade
Odessa, Ukraine, 30.05 - 31.05.2017

Background

Following the extensive work at the multilateral level the governments of the WTO member states managed to agree on guidelines and recommendations on how to facilitate trade, simplify certain border procedures and deliver technical assistance to those WTO members who need it to implement the Trade Facilitation Agreement. In this regard the national authorities responsible for the trade and agrarian policy-making should take the lead and establish a dialogue to join forces with the private sector to ensure sustainable agri-food trade reducing its costs and accelerating trade flows.

The two-days seminar organized by the FAO Regional Office for Europe and Central Asia was attended by the representatives of the UNECE (United Nations Economic Commission for Europe), WTO (World Trade Organization), UN/CEFACT (United Nations Center for Trade Facilitation and Electronic Business), Ministries of Agriculture, Economy and Trade, customs authorities of WTO member states from Central Asia, the Caucasus, Moldova and Ukraine, representatives of business associations of agricultural producers as well as the experts in the international trade from Eastern Europe and Central Asia.

The main expected outcomes of the Workshop were:

- a detailed explanation of the provisions of the WTO Trade Facilitation Agreement;
- expanding participants' knowledge on international regulatory documents on the export and import of agricultural products and electronic certification;
- capacity building and exchange of experience in the development and implementation of trade facilitation policies for representatives of participating ministries and agencies.

The participants of the FAO Regional Workshop representing 9 European and Asian states¹ received a detailed overview on the fundamental provisions of the WTO Trade Facilitation Agreement and the obligations of the WTO member states in the field of trade facilitation. Overall 47 specialists from Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan and Ukraine together with EU experts participated in the workshop. The Workshop offered the representatives of ministries, departments, business and expert communities a platform to discuss challenges in the development and implementation of trade facilitation policies for their countries and also to develop ways to strengthen the national capacities in this area. After summarizing the results of the Workshop the participants attended the opening ceremony of the Agro-Logistics Exhibition and the Odessa Sea Commercial Port, where they studied the operation of the grain terminals in the port. On the third day the participants attended the UNECE International Seminar on Trade and Transport Facilitation “National Single Window and Data Harmonization in Ukraine.”

During the FAO workshop participants identified challenges in bringing the national practices closer to the requirements of the TFA, which are faced by the countries of the region, such as: the varying degree of technical readiness of the countries participating in the TFA to verify electronic documentation, the lack of agreements between control agencies within the Single Window, certification of the necessary documentation for the data exchange at the national level. The keynote speakers helped to identify the possible ways of solving the above challenges.

Overview of discussions and outcomes

WTO Trade Facilitation Agreement and International Legal Instruments Concerning the Production and Carriage of Agricultural Products

Along with other international documents the Trade Facilitation Agreement is aimed at minimizing formalities and requirements to documents, except for those that are actually required by the society for trade regulation. Although the TFA final provisions indicate that this Agreement does

¹ Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Kazakhstan, Moldova, Tajikistan and Ukraine

not diminish the rights and obligations of the members under the Technical Barriers to Trade (TBT) and the Sanitary and Phytosanitary Standards (SPS) Agreements, it allows extending the obligations beyond the SPS and TBT Agreements. Moreover, Appendix C to the SPS, which specifies the requirement to avoid unnecessary trade violations or transaction costs during control, inspection and approval procedures, is closely related to TFA. The TBT Agreement also ensures that technical regulation acts, standards and conformity assessment procedures create no unnecessary barriers to international trade.

During the Workshop experts also noted several WTO TFA provisions related to the agri-food supply chain, and the positive impact of these provisions on the development of international agri-food trade. In particular, it was stressed that a complex system of regulatory requirements and a large number of international traders creates an opportunity for certain players to earn on these complexities. It inspires resistance to the trade facilitation process on behalf of those who built their business on the complexity of the international trade. The WTO TFA is aimed at minimizing formalities and documentation requirements by isolating only those aspects that society really needs to regulate the trade. At the same time, the WTO TFA provides for a periodic review of the existing formalities and requirements with a view to reducing and simplifying them in order to: accelerate the handling and release of goods (especially perishable products); promptly cancel them when there is no public need for them. At the same time the interests of society (safety and security), in turn, must be protected.

The experience of representatives of Ukraine in the work of UN/CEFACT in the development of new Recommendations No. 36 (Single Window Interoperability) and No. 42 (Trade and Transport Facilitation Monitoring Mechanism) in 2017 concerning the integration of national data centers for the implementation of Single Window systems and monitoring of Single window systems development processes, respectively, was presented as a success story.

The discussion focused on the problem of data unification to ensure the exchange between control agencies not only at the national, but also at the interstate level. The parties proposed various solutions to this problem and identified the possible mistakes in the development of the national Single Window information systems and ways to avoid them. They insisted on compliance with international standards adopted by the WTO and CEFACT, which can greatly simplify the further work on the development of electronic data exchange systems.

As a negative practice of regulating the international agri-food trade experts mentioned the incorrect development and application of technical regulations by many countries. Moreover, in practice these rules are often applied on a random basis, especially when the requirements for testing and certification are unclear, not widely published, are difficult to implement or highly cost-effective for foreign production and processing companies. The differences between the technical rules, including those related to product certification in several countries, may aggravate trade: when countries cannot agree on or recognize the relevant technical regulations of another country, the companies operating in the markets of these countries bear financial and time costs. Thus the objectives and application of the rules should be transparent, predictable and non-discriminatory, and the TBT Agreement should first of all be perceived as a "regulatory regime for national practices". These steps will facilitate the unification of the electronic data exchange between countries of importers and exporters.

The Workshop emphasized the important role of customs services in the process of providing trade facilitation with respect to the protection of national interests and ensuring security for WTO member states through the improvement of the application of the electronic system for analyzing the risks of foreign trade operations.

Introducing e-certification international standards

Particular attention was paid to the certification process in international trade, the principles and stages of its implementation, as well as the existing international standards in the field of certification of products. In particular, participants discussed an ISO certification system, an electronic phytosanitary certificate, an electronic laboratory, e-certification, e-signature requirements and verification, the Global Product Classification (GPC), the Global Location Number (GLN), the

European and Mediterranean Plant Protection Organization (EPPO) standards, standardization and WCO data models, UN/CEFACT, ISO. They dwelled on the existing problem of forging the certificates and highlighted the advantages of e-SPS certification. Among the reasons slowing down the process of introducing electronic SPS certificates are the need to modernize the legislative framework, a lack of political will, a weak infrastructure of information technologies and hardware in institutions responsible for SPS, lack of standardized certificates (especially food and veterinary ones) and exchange protocols, as well as the high cost of creating such a system. The steps that should be taken before starting the implementation of the electronic certification system, including the phasing of its implementation were discussed.

TFA: Experience of the countries in the region

The presentations of the representatives of the region states showed that they were interested in the TFA implementation, but they were at different stages of implementing this Agreement. For example, in some countries there is a fragmented introduction of TFA elements, such as a Single Window or electronic certification; in other countries, an electronic service for obtaining import permits has been in effect for several years. Their interest in TFA is also reflected in the fact that work is being done at the legislative level: the national bodies and working groups on trade facilitation are being established; the countries are jointly working with international organizations to implement the TFA.

The representatives of the countries emphasized the possible positive aspects of the WTO TFA implementation, in particular, the increased transparency; decreased corruption factors; identification of possible development partners; facilitated access to the global production chain; diversification of trade through an increase in the number of exported products; acceleration of customs clearance and receiving permits for unloading/shipment, etc., which can encourage the further growth of the country's economy.

However, the lack of coordination between agencies within the country, as well as with external trading partners, a weak infrastructure and a lack of experts in trade facilitation are slowing down the TFA implementation in the countries of the region.

Group work

On the second day of the Workshop the participants were given the opportunity to discuss in groups the knowledge gained during the Workshop, taking into account the specific nature of their countries' economies. The tasks of the group members included the identification of barriers and the certain problems and the search for possible ways to overcome them.

Thus, the first group worked on **Determining the degree of country's readiness to implement WTO TFA measures notified as Category A, B and C related to agri-food trade regarding:** publication and transparency; formalities, clearance and certification; cooperation between regulatory agencies and establishing the Single Window. In the course of the work, the participants in the first group identified 13 key measures to implement the WTO TFA and notified them as per appropriate Category (A, B or C). The major recommendation from the group: the TFA National Committee should include the representatives of relevant agencies (veterinary and phytosanitary services).

The second group of participants worked on **the electronic certificates**. The second group identified two main obstacles impeding the process of electronic certificate introduction: the lack of a single standard form of data exchange in the industry and the varying degree of technical readiness of the member states to verify electronic documents (not all countries have digital signatures). To overcome these obstacles, the group members proposed the following: to introduce ASYCER module with the appropriate data exchange protocol for both national use and cross-border exchange; to initiate the conclusion of interdepartmental agreements on electronic data interchange (mandatory exchange) and the transition to document circulation in electronic form at the national level; to propose the conclusion of cross-border agreements on the exchange of documents between countries in electronic form (certificates, declarations, etc.); to include in the Central Authorities' agenda the issue of the development of a system for the exchange of unified data and to conclude the appropriate

agreements between the countries. Also during the discussion it was suggested: to collect proposals from member states to implement the electronic certification system; to start negotiations to create an international standard for a unified approach to the application of electronic certification; to create an international standard for a unified approach to the application of electronic certification; to create a unified system for the classification of product codes for all participating countries.

Participants also expressed the need in regular international exchange of experience in this field.

The third group discussed **the legal issues of agri-food trade facilitation, the introduction of electronic certification and licensing and data exchange between regulators**. In the course of the work, the third group identified 4 main problems in the legal field regarding simplification of formalities in the agri-food trade. They are: the lack of agreements between the controlling agencies within the Single Window; problems with the legalization of security protocols for data exchange (certificates, authentication, electronic signature, etc.) at the national level; the development of a protocol for the exchange of certificates at a transboundary level and the mutual recognition of security during the data exchange.

To overcome these obstacles, the working group proposed to consider the technical support (for solving the first two problems); to provide the relevant national authorities with automated certificate issuance and exchange systems; to ensure procedures for mutual coordination of the electronic signature standard.

Conclusion

The Trade Facilitation Agreement binds and encourages governments to reduce documents and time, establish a Single Window at the border, comply with international standards and best practices in customs procedures, negotiate mutual recognition of the Authorized Economic Operators, ensure cooperation between border control agencies, etc. The Agreement contains specific requirements to accelerated clearance of perishable products, which directly affects agricultural products. Proper implementation of these and other provisions of the Agreement will help agricultural producers and exporters diversify their markets, offer new products, facilitate the participation of small and medium-sized enterprises in global value chains, attract more investments.

Trade facilitation should be implemented through a set of measures at the national and international levels to ensure the simplification and harmonization of customs procedures. These measures are in fact an efficient set of tools for creating and maintaining a favorable business climate, strengthening the predictability of trade policies and encouraging the economic development of countries.

Regarding the ways of overcoming the existing obstacles to trade facilitation, participants and experts noted the need for interaction of various agencies both within the country and between trading partners in order to develop a harmonized data exchange system. Participants also expressed the need in regular international exchange of experience in this field.